

FILED  
U.S. DISTRICT COURT  
NORTHERN DIST. OF TX  
FT. WORTH DIVISION

2014 APR -7 PM 4:04 SS

CLERK OF COURT



**v.**

Civil Action No. \_\_\_\_\_  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
4:12-CV-721-A  
**FILED**  
**APR 15 2014**  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy

## DEFENDANT'S EXHIBIT INDEX

(2014)

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
1	Work Orders and Supporting Details (PAL-CON 000415-29; 435-87; 748-851; 853-88; 900-24; 952-1275)			
2	Fax from Anne's Pilot Car Service (BRANT 0149)	Plaintiffs' Objections: ERE 106, 802 and 901		
3	Invoice from Anne's Pilot Car Service (BRANT 0072-73)			
4	Anne's Pilot Car Service Ticket (BRANT 0071; WHEELER 000001)			
5	Damaged Regenerator & Replacement Expenses (PAL-CON 000216-42)			

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
6	Damaged Regenerator & Replacement Expenses (Pal-Con 1393-1418 dated March 5, 2014)	(consequential		
7	Friends Express Uship Profile (Pal Con 008-13; FRIENDS 0001-2) <i>wa</i>	<u>Plaintiffs' Objections:</u> FRE 401, 402, 403 and 901		
8	Uship terms and conditions (Pal-Con 0010-13; FRIENDS 0006-9)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 901		
9	Uship SAFER Information (FRIENDS 0003-5)	<u>Plaintiffs' Objections:</u> FRE 401		
10	Friends Express LLC Customer Credit Application (Brant 0030 & Pal Con 0014; 0079)	<u>Plaintiff's Objections:</u> FRE 402, 901		
11	Bill of lading (Left Side Module) at pickup; Brant 49; FRIENDS 272-273; Exhibit 32 to the deposition of James Randall Thompson	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403  <u>Plaintiffs' Objections:</u> FRE 403		
12	Bill of Lading for Left Side Module at delivery Friends 0033; Brantley Depo Exhibit 28; Maples Exhibit 28; Thompson Depo Exhibit 32; Brantley 0050			
13	Bill of Lading 09/12/11 piping and flange for Spectra trip 2938 Pal Con 00142	<u>Plaintiffs' Objections:</u> FRE 401		
14	Bill of Lading for Right Side Module (Friends 287)	<u>Plaintiffs' Objections:</u> FRE 401, 402, and 403		
15	Brantley Invoice (Brant 95)	<u>Plaintiffs' Objections:</u> FRE 401		
16	BOL for Left Module to Lilly, PA 10/04/10 Pal-Con 1295	<u>Plaintiffs' Objections:</u> FRE 401		
17	BOL for Right Module to Lilly, PA 10/04/10 Pal Con 1294	<u>Plaintiffs' Objections:</u> FRE 401		
18	BOL for ducts and other parts to Lilly, PA Click Farms 09/28/10 Pal Con 1299	<u>Plaintiffs' Objections:</u> FRE 401		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
19	BOL for trailer from Lilly, PA to Stephenville by Click Farms 10/01/10 Pal Con 1298	<u>Plaintiffs' Objections:</u> FRE 401		
20	Invoices (Pal-Con 0488-625; 650-57; 660-78; 713-47; 852; 890-96; 898-99; 1284; Pal-Con 283-286; VF 00299 & VF 00328; Pal Con 1292; Pal Con 1296; Pal Con 143	<u>Plaintiffs' Objections:</u> FRE 401, 802 and 901		
21	Friends Invoice for Job #2951 the Left Side Module (Pal Con 0143; FRIENDS 0039-40)			
22	Pal Con Purchase Order for Friends Transport units from Stephenville, TX to Lilly, PA 2 @ \$9,900 ea = \$19,800 (VF 00300 & VF 00329)			
23	Purchase Orders (Pal Con 147; Pal Con 150; FRIENDS 0038; Pal Con 1293; Pal Con 1297; VF 330-336; VF 710-6); VF 330 & 329	<u>Plaintiffs' Objections:</u> Duplicates; FRE 401	4/14 4/14	
24	Crystal Baca Emails (VF 308; VF 413-14; VF 645-646; Pal-Con 259)	<u>Plaintiffs' Objections:</u> FRE 403		
25	Jacob Maples Driver's License and Medical Examiner's Certificate, (BRANT 0006)	<u>Defendant's Objections:</u> Relevance FRE 401  <u>Plaintiffs' Objections:</u> FRE 403		
26	Ohio Permit (BRANT 60-61)			
27	Photographs of Eastbound I-70 at mile 91 (Exhibit 7 to the deposition of Bert Wheeler)			
28	Aerial of I-70 and I-270 mixmaster (Wheeler Depo Ex. 8)			
29	Map of Permitted Route (Exhibit 10 to the deposition of Bert Wheeler)			
30	Photo of I-270 North and Ohio 317 bridge (Wheeler Depo Ex. 11)			
31	Photographs dated September 23, 2011 (Exhibit 12 to the deposition of Bert Wheeler; Hufford Depo Ex. 1)			
32	Friends' Broker Documents (Brant 31-41; Brant 232-34; Brant 239)	<u>Plaintiffs' Objections:</u> FRE 401, 403, 802,		
33	Carrier Load Rate Confirmation (Brant 42-47)			

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
34	The Internet Truckstop load transportation request (Brantley Depo Ex. 25)			
35	Map with bridge location circled (Hufford Depo Ex. 3)			
36	Photographs from Crawford Report (BRANT 0097-108)			
37	Photographs of damaged unit (PAL-CON 000288-307)			
39	12/20/11 Notice letter from VFIC to Brantley (BRANT 0152-96)	<u>Defendant's Objections:</u> Relevance FRE 401, FRE 403  <u>Plaintiffs' Objections:</u> FRE 402, 403		
40	1/26/12 Notice letter from Pal-Con to Brantley (BRANT 0249-51)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403  <u>Plaintiffs' Objections:</u> FRE 402, 403		
41	1/26/12 Notice letter from Pal-Con to Friend's Express (BRANT 0252-54; FRIENDS 0111-13)	<u>Defendant's Objections:</u> Relevance FRE 401; FRE 403  <u>Plaintiffs' Objections:</u> FRE 402, 403		
46	Correspondence from Spectra Energy (PAL-CON 000356-57)			
47	Correspondence between Randy Thompson and Troy Connor (PAL-CON 000358-61)			
48	Correspondence with Spectra Energy (PAL-CON 001276-79)			
49	Supplemental Activation Order with Spectra Energy (PAL-CON 001280-81)			
51	Arnie's Conditional Computation of Allowable Pal-			

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
	Con Damages (Arnie Depo Ex. 3)			
52	Original Estimate of Additional Costs for Refurb and Installation (PAL-CON 000202-05)			
53	Spreadsheet of Miscellaneous Expenses and Supporting Receipts (PAL-CON 000679-710)			
54	Spreadsheet of Extra Garrett Materials (PAL-CON 000711-12)			
56	Spreadsheet of Extra Pal-Tex Materials (PAL-CON 000889)			
57	Spreadsheet of Extra Install Materials (PAL-CON 000897)			
58	Spreadsheet of equipment hours (PAL-CON 000925)			
59	Spreadsheet of Service Purchase Orders as of 7/16/12 (PAL-CON 000658-59)			
60	Mobilization Crew Hour Logs (PAL-CON 000626-49; 000926-27; 000932-33; 000935; 000938-39; 000942-43; 000945)			
61	Equipment Logs (PAL-CON 000928-31; 000934; 000936-37; 000940-41; 000944; 000946)			
62	Mobilization Expense Reports (PAL-CON 000947-51)			
63	Southwest Transport Logistics Inc.'s Invoice for Return of Damaged Unit (PAL-CON 000278)			
67	Interstate Commerce Commission Permit for Jeffrey D. Brantley d/b/a Brantley Transportation (Brantley 0007-0008)	<u>Plaintiffs' Objections:</u> FRE 401		
68	ODS North America Invoice (Brant 0029)	<u>Plaintiffs' Objections:</u> FRE 401		
69	Carrier Profile filled out by Brantley (Brant 0039 & Brant 0231 & Brant 0440)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 404		
70	US DOT License Friends Express (Brant 0040 & Brant 0441)	<u>Plaintiffs' Objections:</u> FRE 401 and 901		
71	W-9 Form (Brant 0041)	<u>Plaintiffs' Objections:</u> FRE 401		

<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
72	Certificate of Liability Insurance for Brantley (Brant 0048)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
73	Oct 11, 2011 claim letter from Pal Con to Brantley (Brant 0116-0116)	<u>Plaintiffs' Objections:</u> FRE 106, 1002 and 1003		
74	Oct 11, 2011 claim letter from Pal Con to Friends (VF 00643-644)	<u>Plaintiffs' Objections:</u> FRE 401 and 403		
75	Standard Form for Presentation of Loss and Damage Claims signed by James R. Thompson (Brant 0118-0119 & VF 0029)	<u>Plaintiffs' Objections:</u> FRE 106, 1002 and 1003		
76	W & A Regenerator Loss Estimate (Brant 0192)	<u>Plaintiffs' Objections:</u> FRE 106, 702, 703, 802, 1002 and 1003		
77	Sworn Statement in Proof of Loss (Brant 0193 & Pal Con 00030 & VF 00226 & VF 00349 & VF 00354)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
78	Subrogation Receipt (Brant 0194 & VF 00227 & VF 00350-351 & VF 00355-356)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 411		
79	Nov 9, 2011 letter from Pal Con to CNA Insurance: will replace unit (Brant 0212)	<u>Defendant's Objections:</u> FRE 401, 403  <u>Plaintiffs' Objections:</u> FRE 401		
80	Standard Form for Presentation of Loss and Damage Claims (Brant 0267 & Pal Con 00025 & VF 00358-360)	<u>Plaintiffs' Objections:</u> FRE 106, 1002 and 1003		
81	Corrected Standard Form for Presentation of Loss and Damage Claims (VF 00361-364)	<u>Plaintiffs' Objections:</u> FRE 401, 403		
82	Pal Con's Spectra Energy - Lilly PA Breakdown of Additional Costs Associated with Regenerator Damaged in Transport (Brant 0269-0271 & Pal Con 0026 & VF 00230)	<u>Plaintiffs' Objections:</u> FRE 106 and 403		
83	W-9 signed by Jeffrey D. Brantley 04/05/10 (Brant 0430)	<u>Plaintiffs' Objections:</u> FRE 401		
84	Carrier References for Brantley Transportation (Brent 0431)	<u>Plaintiffs' Objections:</u> FRE 401 and 802		
85	Certificate of Liability for Jeff Brantley "For Info	<u>Plaintiffs' Objections:</u>		



<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
	Only" (Brant 0432)	FRE 401, 403 and 411		
86	Photograph of Brantley truck (Brant 0468)	Plaintiffs' Objections: FRE 401 and 901		
87	E-mail from Randy Thompson to Greg Hunter regarding e-mails between Pal Con and Friends (VF 00340-342)	Plaintiffs' Objections: FRE 401 and 802		
88	Statement of Loss (VF 00223)	Plaintiffs' Objections: FRE 403, 802, 901 and 1006		
89	Pal Con's itemization of damages (VF 00472-496)	Plaintiffs' Objections: FRE 106		
90	Pal Con letter to CNA regarding efforts best spent manufacturing a new unit (VF 00498)	Plaintiffs' Objections: FRE 401 and 403		
91	E-mail string between Greg Hunter and Heather Melton regarding payment of \$800,000 check (VF 00575)	Plaintiffs' Objections: FRE 401, 403, 701, 702 and 901		
92	E-mail from Kellie Herrmann to Scott Armstrong. Werlinger, re: attachments Spectra Energy purchase order, activation order (VF 00683-684), Spectra changing dates of the project, proof of sale of two used cores, letter from Thompson, used flange assemblies selling for 60% of original value with attachments (VF 00578-604)	Plaintiffs' Objections: FRE 401 and 403		
93	Activation Order as Supplemented 09/29/11 (VF 00706-709)			
94	E-mail from Kellie Herrmann to Scott Armstrong re: copy of bid contract with Spectra Energy re: regenerator and attachment (VF 00605-616)			
95	Document showing expenses for trip to site (VF 00647-652)			
96	Pal Con Pal-Tex Regenerator Installation Bid 01/20/11 (VF 00685-694)	Plaintiffs' Objections: FRE 401 and 403		
97	Bid v. Estimated Cost v. Actual Cost analysis for 01/20/11 (VF 00695)	Plaintiffs' Objections: FRE 401 and 403		
98	Pal Con bid for regenerator replacement 09/14/10 (VF 00697-705)			

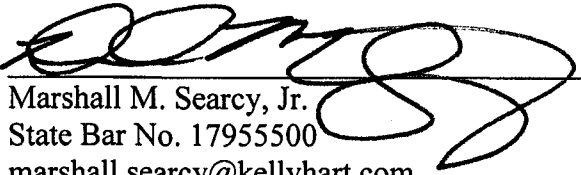
<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
99	Bill of Sale Equipment signed by Randy Thompson re: sale of 3 refurbished Garrett Regenerator Cores @ \$60,000 each (VF 00719)	<u>Plaintiffs' Objections:</u> FRE 401		
100	CNA check to Pal Con for \$800,000 (VF 00721)	<u>Plaintiffs' Objections:</u> FRE 401, 403 and 401		
101	V. Paul Herbert's C.V. and Report dated July 11, 2013	<u>Plaintiffs' Objections:</u> FRE 602, 702, 703 and 802		
102	Dennis Arnie's C.V. and Report dated July 12, 2013	<u>Plaintiffs' Objections:</u> FRE 602, 702, 703 and 802		
103	Insufficient Support for Purchase Orders, Tab 19 to Dennis Arnie's report (Pal-Con_000241, Pal-Con_000671)	<u>Plaintiffs' Objections:</u> FRE 106, 602, 702, 703 and 802		
104	Estimated Salvage Value of Original Left-Side Module, Tab 22 to Dennis Arnie's report (Pal-Con_000130)	<u>Plaintiffs' Objections:</u> FRE 106, 602, 702, 703 and 802		
105	Email thread from Crystal Baca to Christine Friend dated August 25, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000151-000152)	<u>Plaintiffs' Objections:</u> FRE 401		
106	Email thread from Christine Friend to Crystal Baca dated August 26, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000153-000156)	<u>Plaintiffs' Objections:</u> FRE 401		
107	Email thread from Christine Friend to Crystal Baca dated August 29, 2011, Exhibit 33 to the deposition of James Randall Thompson (Pal-Con_000157-000162)	<u>Plaintiffs' Objections:</u> FRE 401		
108	Letter from Randy Thompson to Brantley Transportation dated October 11, 2011, Exhibit 41 to the deposition of James Randall Thompson (Pal-Con_000023-000024)			
109	Equipment Operating Agreement, Exhibit 20 to the deposition of Jeff Brantley (BRANT 0016-0027)	<u>Plaintiffs' Objections:</u> FRE 401		
110	Jacob Maples Application for Employment, Exhibit 27 to the deposition of Jacob Maples (BRANT 0009-0012)	<u>Defendant's Objections:</u> Relevance FRE 401, 403		



<u>Exh</u>	<u>Description</u>	<u>Objections</u>	<u>Offered</u>	<u>Admitted</u>
111	Bert Wheeler's licenses and certificates, Exhibit 1 to the deposition of Bert Wheeler (Wheeler 000002)		4/14	4/14
112	<del>Map of the highways around Columbus, Ohio (Exhibit 5 to the deposition of Bert Wheeler)</del>			
113	<del>Map of a portion of I-270, Exhibit 6 to the deposition of Bert Wheeler</del>			
114	Certified Copy of the State of Ohio Operational Guide for Vehicles Operating with an Oversize/Overweight Special Hauling Permit (WHEELER 59-175)	Plaintiffs' Objections: FRE 401 and 901; FRCP 34 and 37	4/14	4/14
115	<del>Photograph of Brantley Transportation Truck, Exhibit 15 to the deposition of Bert Wheeler</del>			
116	<del>Aerial photograph, Exhibit 18 to the deposition of Bert Wheeler</del>			
117	<del>Aerial photograph, Exhibit 19 to the deposition of Bert Wheeler</del>			
118	<del>Freight Details, Exhibit 25 to the deposition of Tonya Brantley</del>			
119	<del>Pilot Car Escort Best Practices Guidelines, Exhibit 1 to the deposition of Randy Sorenson</del>	<del>Plaintiffs' Objections: FRE 702, 703 and 802</del>		
123	Gahanna Police Department Incident Report (VF00657-00659)	Plaintiffs' Objections: FRE 401, 402, 403, and 801		

**CERTIFICATION OF COUNSEL**

The foregoing accurately states the objections of Defendant, Bert A. Wheeler d/b/a Anne's Pilot Car Services as reflected above. Other than those objections identified above and in the Parties' Revised Joint Exhibit Index, the parties agree to the admissibility of the foregoing exhibits.



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**\* Admitted Pro Hac Vice**

**CERTIFICATION OF COUNSEL**

The foregoing accurately reflects the exhibits the Plaintiffs intend to introduce at trial of this matter.

  
\_\_\_\_\_  
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